

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re	:	Chapter 11
	:	
W.R. Grace & Co., <i>et al.</i>	:	Case No. 01-01139 JKF
	:	
Debtors.	:	

**REQUEST OF GOVERNMENT EMPLOYEES INSURANCE COMPANY  
AND REPUBLIC INSURANCE COMPANY FOR THE COURT TO  
TAKE JUDICIAL NOTICE OF CERTAIN DOCUMENTS AND FACTS**

Pursuant to Rule 201 of the Federal Rules of Evidence and Rule 9017 of the Federal Rules of Bankruptcy Procedure, Government Employees Insurance Company (“GEICO”) and Republic Insurance Company n/k/a Starr Indemnity & Liability Company (“Republic”) hereby respectfully request that this Court take judicial notice of the existence and contents of certain documents described below, so that they may be considered part of the record at Phase II of the Confirmation Hearing in this matter.

Under Rule 201 of the Federal Rules of Evidence, a court may take “judicial notice of adjudicative facts” that are “not subject to reasonable dispute in that [they are] either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(a) & (b). Under Rule 201, “[a] court shall take judicial notice if requested by a party and supplied with the necessary information.” Fed. R. Evid. 201(d).

It is appropriate for this Court to take judicial notice of its own files, including pleadings and other papers of record in this bankruptcy case and in related adversary proceedings. *See Southmark Prime Plus, L.P. v. Falzone*, 776 F. Supp. 888, 892 (D. Del.

1991). It is also appropriate for this Court to take judicial notice of facts contained in public or quasi-public records. *See Del Puerto Water Dist. v. U.S. Bureau of Reclamation*, 271 F. Supp. 2d 1224, 1232-33 (E.D. Cal. 2003); *Southmark Prime Plus, L.P. v. Falzone*, 776 F. Supp. 888, 892-93 (D. Del. 1991) (citing *Massachusetts v. Westcott*, 431 U.S. 322, 323 n.2 (1977)); *see also Oran v. Stafford*, 226 F.3d 275, 289 (3d Cir. 2000) (SEC filings and facts contained therein); *Grassmuck v. Barnett*, 281 F. Supp. 2d 1227, 1232 (W.D. Wash. 2003) (facts contained in public corporate records kept by state officials); *Boone v. Menifee*, 387 F. Supp. 2d 338, 343 n.4 (S.D.N.Y. 2005) (facts available via official government web sites); *U.S. ex rel. Dingle v. BioPort Corp.*, 270 F. Supp. 2d 968, 972 (W.D. Mich. 2003) (same); *In re Holstein*, 299 B.R. 211, 233 n.26 (Bankr. N.D. Ill. 2003) (same).

#### Court Records

GEICO and Republic request that the Court take judicial notice of the existence and contents of the following pleadings and other papers filed of record in this bankruptcy case and in related adversary proceedings:<sup>1</sup>

1. Complaint for Declaratory and Other Relief, including all exhibits thereto, filed on or about September 2, 2004 in an adversary proceeding before this Court entitled *The Scotts Company v. American Employers' Insurance Company, et al.*, Adv. No. 04-55083-JKF, attached hereto as Exhibit 1, and pre-marked as trial exhibit GR-7.

2. Objection of The Scotts Company LLC to Confirmation of First Amended Joint Plan of Reorganization (D.I. 21775), filed on or about May 20, 2009 in this

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<sup>1</sup> Although it is not entirely clear that that it is necessary to request judicial notice of papers filed on the docket of the very same bankruptcy case, out of an abundance of caution, this request seeks judicial notice of papers filed in this bankruptcy case as well as those filed in related adversary proceedings.

bankruptcy case, and exhibits thereto, attached hereto as Exhibit 2, and pre-marked as trial exhibit GR-9.

3. Objections of BNSF Railway Company to Confirmation of the First Amended Chapter 11 Plan of W.R. Grace & Co., et al., the Official Committee of Asbestos Personal Injury Claimants, the Asbestos PI Future Claimants' Representative, and the Official Committee of Equity Security Holders Dated February 3, 2009 (D.I. 21769), filed on or about May 20, 2009 in this bankruptcy case, and exhibits thereto, attached hereto as Exhibit 3, and pre-marked as trial exhibit GR-8.

4. Supplemental Verified Statement in Connection with the Representation of Creditors as Required by Fed. R. Bankr. P. Rule 2019 by Cooney and Conway (D.I. 20895), filed on or about March 2, 2009 in this bankruptcy case, attached hereto as Exhibit 4, and pre-marked as trial exhibit GR-25. GEICO and Republic further request that the Court take notice of the related confidential list of clients disclosed to the Court *in camera* but not available to GEICO and Republic.

5. Notice of Filing Amended Statement Under Bankruptcy Rule 2019 by Baron & Budd, P.C. (D.I. 20840), filed on or about February 25, 2009 in this bankruptcy case, attached hereto as Exhibit 5, and pre-marked as trial exhibit GR-26. GEICO and Republic further request that the Court take notice of the related confidential list of clients disclosed to the Court *in camera* but not available to GEICO and Republic.

6. Third Amended Verified Statement in Connection with the Representation of Creditors as Required by F.R.B.P. Rule 2019 by Weitz & Luxenberg (D.I. 12979), filed on or about August 7, 2006 in this bankruptcy case, attached hereto as Exhibit 6, and pre-marked as trial exhibit GR-27. GEICO and Republic further request that the

Court take notice of the related confidential list of clients disclosed to the Court *in camera* but not available to GEICO and Republic.

7. Eleventh Amended Verified Statement Pursuant to Fed. R. Bankr. P. 2019 Filed by Motley Rice LLC (D.I. 20777), filed on or about February 20, 2009 in this bankruptcy case, attached hereto as Exhibit 7, and pre-marked as trial exhibit GR-28. GEICO and Republic further request that the Court take notice of the related confidential list of clients disclosed to the Court *in camera* but not available to GEICO and Republic.

Public Records Available from Official Government Web Sites

GEICO and Republic request that the Court take judicial notice of the existence and contents of the following public records, which may be obtained from the official government web sites of the Securities and Exchange Commission (edgar.sec.gov):

1. SEC Form 8-K – W.R. Grace & Co., filed April 6, 2008, attached hereto as Exhibit 8, and pre-marked as trial exhibit GR-23.

Accordingly, GEICO and Republic respectfully request that this Court take judicial notice of the existence and contents of the foregoing documents.

Respectfully submitted,

Dated: August 28, 2009

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